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10/772,881

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Robert Thomas Uthe

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MYERS BIGEL SIBLEY SAJOVEC P.A.
PO BOX 37428
RALEIGH, NC 27627

EXAMINER

NAJEE-ULLAH, TARIQ S

ART UNIT

PAPER NUMBER

4121

MAIL DATE

DELIVERY MODE

10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/772,881

Applicant(s)

UTHE, ROBERT THOMAS

Examiner

Tariq S. Najee-ullah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/5/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first Office action in response to Application 10/772,881 "Method and system for scheduling, monitoring and dynamically managing resources" filed on February 5, 2004. Claims 1-20 have been examined and are pending.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on February 5, 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 18-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 18-20 recite "a computer readable medium" Claim 18, Claim Line 3. The computer readable is not limited to statutory subject matter. In view of Applicant's disclosure, specification page 3, lines 5-10, the computer readable medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., "... including hard disks, CD-ROMs, optical storage devices..." page 3, line 8) and intangible embodiments (e.g., "...any suitable computer readable medium may be utilized including ... a transmission

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media" page 3, lines 7-9). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 8-13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Rassman et al. (Rassman herein after) US Patent Number 4,937,743.

Regarding claim 1, Rassman discloses a method of selecting among a plurality of alert conditions for processing with a resource management system, the method comprising: associating a priority indication with at least some resources in a computer system (Column 1, lines 6-12; Rassman discloses the invention relates to a method for the dynamic management of a plurality of resources, i.e. a resource management system, using a computer system.); identifying resources associated with the alert conditions (col. 3, lines 2-6; Rassman teaches "Scheduling indicia" indicate utilization of resources, i.e. identify resources, "conflict indicia", i.e. a type of priority indicator may be used to alert operators, i.e. convey alert conditions associated with resources, to scheduling

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conflicts associated with the available resources.); and selecting an alert condition from among the alert conditions based on the priority indication associated with the identified resources (col. 3, lines 5-11; Rassman teaches "conflict indicia", i.e. a type of priority indicator, may be used to alert operators, i.e. convey alert conditions associated with resources, to scheduling conflicts associated with the available resources. The method according to the invention enables dynamic control of a complex project involving a plurality of resources which are interrelated, i.e. associated).

Regarding claim 2, Rassman discloses the method of claim 1, wherein associating a priority indication with at least some resources comprises prioritizing at least some of the resources relative to each other (col. 3, lines 12-15; Rassman discloses the method and system of this invention gives access to the data base in order to provide information, beyond that appearing on the display, relative to a selected resource.).

Regarding claim 3, Rassman discloses the method of claim 1, wherein associating a priority indication with at least some resources comprises prioritizing at least some of the resources based on their importance to operation of a business (col. 4, lines 36-55; Rassman teaches an embodiment where the resources relate to the monitoring and planning use of facilities and other resources in the surgical suite of a hospital, i.e. the management and

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operation of a hospital surgical suite. Resources are organized, i.e. prioritized using a rule-based system.).

Regarding claim 4, Rassman discloses the method of claim 1, wherein associating a priority indication with at least some resources comprises prioritizing at least some of the resources based on an affect of their failure on other resources in the computer system (col. 4, lines 36-55; Rassman teaches that in an exemplary use of the invention in a hospital surgical suite some equipment, i.e. resources may be unavailable because of construction, repair or maintenance activities, i.e. functional failure or inability to use. In this case, a rule-based system would be followed to determine which resources should be used. Examiner reasons that if this is the process that is followed when the resource is unavailable, the same will be followed during failure because the cause of the unavailability need not be specified.).

Regarding claim 8, Rassman discloses the method of claim 1, wherein associating a priority indication with at least some resources comprises assigning a priority indication based on the resources' current placement in a computer system that is dynamically configured and provisioned to handle on-demand needs (col. 7, lines 11-21; Rassman discloses a method of resolving resource conflicts immediately. The invention recognizes types of conflicts and displays that information immediately. With that kind of information displayed,

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the operator can tell whether to reschedule resources immediately, i.e. as needed or on-demand.).

Regarding claim 9, Rassman discloses the method of claim 1, further comprising determining when a threshold metric associated with at least some of the alert conditions has been satisfied, wherein selecting an alert condition from among the alert conditions based on the priority indication associated with the identified resources is carried out responsive to the determination that the threshold metric has been satisfied (Abstract; Rassman teaches an invention related to the method for the prospective scheduling, periodic monitoring and dynamic management of a plurality of interrelated and interdependent resources using a computer system. The method includes providing a data base containing information about the resources and graphically displaying utilization and availability of the resources as a function of time, i.e. the threshold metric. Indicia, i.e. priority indicators can be made to appear on the display to provide visual identification of symbols as well as information about scheduling, status and conflicts involving the resources. In addition, access to the data base can be made available to provide a continuous update of the display so that the display of the resources is for the most recent data in the data base. Access to the data base can also permit the operator to call up

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a wide variety of information about the resources and can also be used to track events and procedures.).

Regarding claim 10, Rassman discloses the method of claim 9, wherein determining when a threshold metric associated with at least some of the alert conditions has been satisfied comprises determining when a number of queued alert conditions for the resource management system satisfies a threshold number (Abstract; Rassman teaches an invention related to the method for the prospective scheduling, periodic monitoring and dynamic management of a plurality of interrelated and interdependent resources using a computer system. The method includes providing a data base containing information about the resources and graphically displaying utilization and availability of the resources as a function of time, i.e. the threshold metric. Indicia can be made to appear on the display to provide visual identification of symbols as well as information about scheduling, status and conflicts involving the resources. In addition, access to the data base can be made available to provide a continuous update of the display so that the display of the resources is for the most recent data in the data base. Access to the data base can also permit the operator to call up a wide variety of information about the resources and can also be used to track events and procedures.).

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Regarding claim 11, Rassman discloses the method of claim 9, wherein determining when a threshold metric associated with at least some of the alert conditions has been satisfied comprises determining when a waiting time for alert conditions to be handled by the resource management system satisfies a threshold time (Abstract; Rassman teaches an invention related to the method for the prospective scheduling, periodic monitoring and dynamic management of a plurality of interrelated and interdependent resources using a computer system. The method includes providing a data base containing information about the resources and graphically displaying utilization and availability of the resources as a function of time, i.e. the threshold metric. Indicia can be made to appear on the display to provide visual identification of symbols as well as information about scheduling, status and conflicts involving the resources. In addition, access to the data base can be made available to provide a continuous update of the display so that the display of the resources is for the most recent data in the data base. Access to the data base can also permit the operator to call up a wide variety of information about the resources and can also be used to track events and procedures.).

Regarding claim 12, Rassman discloses the method of claim 9, wherein determining when a threshold metric associated with at least some of the alert conditions has been satisfied

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comprises determining when a threshold rate of alert conditions are received for the resource management system (Abstract; Rassman teaches an invention related to the method for the prospective scheduling, periodic monitoring and dynamic management of a plurality of interrelated and interdependent resources using a computer system. The method includes providing a data base containing information about the resources and graphically displaying utilization and availability of the resources as a function of time, i.e. the threshold metric. Indicia can be made to appear on the display to provide visual identification of symbols as well as information about scheduling, status and conflicts involving the resources. In addition, access to the data base can be made available to provide a continuous update of the display so that the display of the resources is for the most recent data in the data base. Access to the data base can also permit the operator to call up a wide variety of information about the resources and can also be used to track events and procedures.).

Regarding claim 13, Rassman discloses a computer system comprising: a plurality of resources; and a resource management system (col. 2, lines 59-61; Rassman discloses the invention related to a method for the dynamic management of a plurality of resources, i.e. resource management system preferably using a computer system) that is configured to associate a

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priority indication with at least some of the resources (col. 2, line 67-col. 3, line 2; Rassman discloses various types of indicia, i.e. priority indicators may be employed to provide visual auditory or other sensory communication of information pertinent to the resources and/or the utilization thereof.), that is configured to identify the resources associated with alert conditions (col. 3, lines 5-6; Rassman discloses "conflict indicia" may be used to alert operators, i.e. convey alert conditions.), and that is configured to select an alert condition from among the alert conditions based on the priority indication associated with the identified resources (col. 3, lines 2-10; Rassman teaches "Scheduling indicia" may be used to indicate utilization (historical and/or prospective) of resources, "status indicia" may be employed to reflect current status of events and "conflict indicia" may be used to alert operators, i.e. alert condition to scheduling conflicts. Examiner interprets indicia to be synonymous with priority indicator.).

Regarding claim 18, Rassman discloses a computer program product for selecting among a plurality of alert conditions for processing by a resource monitoring system, comprising: a computer readable medium having computer readable program code embodied therein, the computer readable program code comprising (col. 11, lines 6-9; Rassman discloses when sequencing is imperative, the method and system of the present invention can be made to operate in a programmed

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mode. Examiner interprets this to be a type of computer readable program code; claim 60; Rassman discloses a means for interrogating said data base to cause a display of information about one of said resources. Examiner notes that computer readable program code is a means for integrating said data base to cause a display of information about one of said resources.): computer readable program code that is configured to associate a priority indication with at least some resources in a computer system (col. 2, lines 59-61; Rassman discloses the invention related to a method for the dynamic management of a plurality of resources, i.e. resource management system preferably using a computer system); computer readable program code that is configured to identify resources associated with the alert conditions (col. 3, lines 5-6; Rassman discloses "conflict indicia" may be used to alert operators, i.e. convey alert conditions.); and computer readable program code that is configured to select an alert condition from among the alert conditions based on the priority indication associated with the identified resources (col. 3, lines 2-10; Rassman teaches "Scheduling indicia" may be used to indicate utilization (historical and/or prospective) of resources, "status indicia" may be employed to reflect current status of events and "conflict indicia" may be used to alert operators, i.e. alert condition to scheduling conflicts. Examiner interprets indicia to be synonymous with priority indicator.).

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6. \ Claims 1, 4-7, 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward et al. (Ward herein after) US Patent Number 5,367,670.

Regarding claim 1, Ward discloses a method of selecting among a plurality of alert conditions for processing with a resource management system, the method comprising: associating a priority indication with at least some resources in a computer system (col. 1, lines 26-27; Ward discloses the invention relates to a manager for a computer system, i.e. resource management system; col. 5, line 48-49; Ward discloses the invention monitors system resources via signals.); identifying resources associated with the alert conditions (col. 1, lines 31-33; Ward discloses the invention determines alert conditions based upon the innately monitored and processed objects); and selecting an alert condition from among the alert conditions based on the priority indication associated with the identified resources (col. 1, lines 31-33; Ward discloses the invention determines alert conditions based upon the innately monitored and processed objects, i.e. a type of priority indication.).

Regarding claim 4, Ward discloses the method of claim 1, wherein associating a priority indication with at least some resources comprises prioritizing at least some of the resources based on an affect of their failure on other resources in the computer system (col. 5, lines 15-20; Ward discloses if a component experiences a failure or

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exhibits characteristics that indicate it may experience a failure, the system manager detects the failure or characteristic indicative of a potential failure and reports the failure or characteristic indicative of a potential failure as an alert in a manner such that corrective action can be taken.).

Regarding claim 5, Ward discloses the method of claim 1, wherein associating a priority indication with at least some resources comprises assigning a priority indication based on whether a resource is a server of information for predetermined computers in the computer system (col. 2, lines 43-49; Ward discloses a network operating system/network manager controls and manages information transfers between the file server and the console and a system manager manages the computer system board by monitoring signals transferred along the system bus, determining alert conditions based upon the monitored signals, i.e. priority indicators.).

Regarding claim 6, Ward discloses the method of claim 1, wherein associating a priority indication with at least some resources comprises assigning a priority indication based on whether a resource is a server of information for predetermined software applications in the computer system (col. 2, lines 42-48; Ward discloses a network operating system/network manager controls and manages information transfers between the file server and the console. Col. 7, lines 33-34; Ward discloses a network operating system is under the control of the network management software

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contained in the network management agent, on to the local network manager console.).

Regarding claim 7, Ward discloses the method of claim 1, wherein associating a priority indication with at least some resources comprises assigning a priority indication based on whether a resource is a predetermined server of information in the computer system (col. 2, lines 43-49; Ward discloses a network operating system/network manager controls and manages information transfers between the file server and the console and a system manager manages the computer system board by monitoring signals transferred along the system bus, determining alert conditions based upon the monitored signals, i.e. priority indicators.).

Regarding claim 13, Ward discloses a computer system comprising: a plurality of resources (col. 1, lines 26-27; Ward discloses the invention relates to a manager for a computer system; col. 5, line 48-49; Ward discloses the invention monitors system resources via signals.); and a resource management system that is configured to associate a priority indication with at least some of the resources (col. 1, lines 26-27; Ward discloses the invention relates to a manager for a computer system, i.e. resource management system; col. 5, line 48-49; Ward discloses the invention monitors system resources via signals.), that is configured to identify the resources associated with alert conditions (col. 1, lines 31-33; Ward discloses the invention determines alert conditions

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based upon the innately monitored and processed objects), and that is configured to select an alert condition from among the alert conditions based on the priority indication associated with the identified resources (col. 1, lines 31-33; Ward discloses the invention determines alert conditions based upon the innately monitored and processed objects, i.e. a type of priority indication.).

Regarding claim 14, Ward discloses the computer system of claim 13, wherein the resource management system is configured to notify a user of the selected alert condition (col. 7, lines 25-34; Ward discloses that alerts can be delivered to the local network manager "in-band" or "out-of-band.").

Regarding claim 15, Ward discloses the computer system of claim 13, wherein the resource management system is configured to initiate a corrective action based on the selected alert condition (col. 5, lines 15-20; Ward discloses if a component experiences a failure or exhibits characteristics that indicate it may experience a failure, the system manager detects the failure or characteristic indicative of a potential failure and reports the failure or characteristic indicative of a potential failure as an alert in a manner such that corrective action can be taken.).

Regarding claim 16, Ward discloses the computer system of claim 13, wherein the resource management system is configured to receive the alert conditions from at least some of the resources (col. 7, lines 29-35; Ward discloses alert elements,

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i.e. alert conditions are directed to the bus master interface and on to the network operating system and, on to the local network manager console.) .

Regarding claim 17, Ward discloses the computer system of claim 13, wherein the resource management system is configured to monitor at least one metric associated with at least some of the resources and to generate the alert conditions based on the monitored metric (col. 2, lines 62-66; Ward discloses in alternate aspects of this embodiment of the invention, the monitored information transfers may be the level of voltage, i.e. monitored metric supplied to the system manager or the temperature, i.e. monitored metric at which the system manager operates.) .

Regarding claim 18, Ward discloses a computer program product for selecting among a plurality of alert conditions for processing by a resource monitoring system, comprising: a computer readable medium having computer readable program code embodied therein (col. 2, lines 42-48; Ward discloses a network operating system/network manager controls and manages information transfers between the file server and the console. A network operating system is based on computer readable program code. fig. 5 is a flow diagram between the hardware and software components of the system manager. Examiner interprets software to be configured computer readable program code.), the computer

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readable program code comprising: computer readable program code that is configured to associate a priority indication with at least some resources in a computer system (col. 1, lines 26-27; Ward discloses the invention relates to a manager for a computer system; col. 5, line 48-49; Ward discloses the invention monitors system resources via signals.); computer readable program code that is configured to identify resources associated with the alert conditions (col. 1, lines 31-33; Ward discloses the invention determines alert conditions based upon the innately monitored and processed objects); and computer readable program code that is configured to select an alert condition from among the alert conditions based on the priority indication associated with the identified resources (col. 1, lines 31-33; Ward discloses the invention determines alert conditions based upon the innately monitored and processed objects, i.e. a type of priority indication.).

Regarding claim 19, Ward discloses the computer program product of claim 18, further comprising program code (please see claim 18 rejection) that is configured to initiate a corrective action based on the selected alert condition (col. 5, lines 15-20; Ward discloses if a component experiences a failure or exhibits characteristics that indicate it may experience a failure, the system manager detects the failure or characteristic indicative of a potential failure and reports the failure or characteristic indicative of a potential failure as an alert in a manner such that corrective action can be taken.).

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Regarding claim 20, Ward discloses the computer program product of claim 18, further comprising program code (please see claim 18 rejection) that is configured to display the selected alert condition to a user (col.10, lines 32-45; Ward discloses a several means to display alert messages including via modem, video screen, UART, software interface, and network operating system.).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 5,109,486 to Seymour titled "Distributed Computer System with Network and Resource Status Monitoring."
- US 5,369,570 to Parad titled "Method and System for Continuous Integrated Resource Management."
- US 5,528,759 to Moore titled "Method and apparatus for correlating network management report messages."
- US 5,666,486 to Alfieri et al. titled "Multiprocessor Cluster Membership Manager Framework."
- US 5,729,688 to Kim et al. titled "Network Element Managing System."
- US 5,862,333 to Graf titled "System for Managing Group of Computers by Displaying only Relevant and Non-Redundant Alert Message of the Highest Severity and Controlling Processes Based on System Resources."

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- US 6,052,722 to Taghadoss titled “System and Method for Managing Network Resources using Distributed Intelligence and State Management.”
- US 6,125,390 to Touboul titled ‘Method and Apparatus for Monitoring and Controlling in a Network.’
- US 6,154,787 to Urevig et al. titled “Grouping Shared Resources Into One Or More Pools And Automatically Re-Assigning Shared Resources From Where They Are Not Currently Needed to Where They Are Needed.”
- US 6,425,006 to Chari et al. titled “Alert Configurator and Manager.”
- US 6,446,134 to Nakamura titled “Network Management System.”
- US 7,225,250 to Harrop titled “Method and system for predictive enterprise.”
- US 7,216,163 to Sinn titled “Method and apparatus for provisioning tasks using a provisioning bridge server.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tariq S. Najee-ullah whose telephone number is (571) 270-5013. The examiner can normally be reached on Monday through Thursday 7:30 - 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Taghi T. Arani can be reached on (571) 272-3787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 12, 2007
TN


TAGHI ARANI
PRIMARY EXAMINER

10/12/07